

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1534 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

RADHA SWAMI SATELLITE

Versus

STATE OF GUJARAT

Appearance:

MR KG VAKHARIA for Petitioners
GOVERNMENT PLEADER for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MR JD AJMERA for Respondent No. 5

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 31/03/2000

ORAL JUDGEMENT

1. By means of filing this petition under Article 226 of the Constitution, petitioners who are Disc Antenna Operators at Kachchh District have prayed to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction directing the respondent No.5 to grant them licence to establish, maintain and work television/video cassette recorder sets for receiving T.V. programmes directly from the satellite under the Indian Telegraphs Act, 1985 and further to quash and set aside the oral decision of the respondent No.4 for removal of disc antennas of the petitioners.

2. The grievance voiced in this petition by the petitioners is that, they are disc antenna operators running their business at the various places at Kachchh District and for running their business, they required licence from the respondent No.5 - Telecom District Engineer, Bhuj, District Kachchh to establish, maintain and work television/video cassette recorder sets for receiving T.V. programmes directly from the satellite. In that connection, they have tendered their application for getting the licence, but the same has not been considered till the filing of this petition.

3. It is also contended in the petition that, respondent No.4 has orally conveyed the decision for removal of disc antennas which the petitioners were operating to relay their programmes in favour of the customers.

4. The respondent nos.2 and 5, that is, Union of India and Telecom District Engineer have filed the composite reply affidavit. In the said affidavit-in-reply, they have referred to various provisions of the Indian Wireless Telegraphy Act, 1933 and also the conditions of the Radio, Television and Video Cassette Recorder Sets (Exemption from Licensing Requirements) Rules, 1985 and then contended that, out of three petitioners, two petitioners have applied for the licence, but still the licence has not been granted to them as on the date of filing of affidavit-in-reply and their application will be decided on merits in accordance with provisions of the Act and the Rules. They have also stated that, without obtaining the licence, it is not open for the petitioners to use disc antennas. Lastly, they have also denied all the averments made in the petition, and prayed for rejection of the petition.

5. Having heard the learned advocate Mr.Ketan D.

Shah for the petitioners and learned AGP Mr.Mukesh Patel for the respondent No.1, and having perusal of the averments made in the petition, documents annexed with the petition and the affidavit-in-reply filed by the respondent Nos.2 and 5, it appears that, the petition filed by the petitioners is at premature stage in view of the statement made in the affidavit-in-reply that, the application of the petitioners has not been considered so far. Learned advocate Mr.Ketan Shah is also unable to inform the court as to what is the latest position with respect to the application submitted by the petitioners for obtaining the licence from the concerned authority. Therefore, at this stage, it would be very difficult to say that the application for obtaining the licence has been considered or not so far as on the date on which the affidavit-in-reply is filed.

6. In view of this, none of the prayer as prayed in the petition can be granted, and hence, this petition is liable to be rejected.

7. In the net result, this petition is rejected, however, with no order as to costs. Rule is discharged. Interim relief stands vacated.

(A.M.Kapadia,J.)
(pathan)